STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of J.S. and M.S., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MICHAEL STEIN,

Respondent-Appellant,

and

KATHY ERB,

Respondent.

UNPUBLISHED
May 29, 2003

No. 244737
Dickinson Circuit Court
Family Division
LC No. 01-000504-NA

Before: Smolenski, P.J., and Griffin and O'Connell, JJ.

PER CURIAM.

Respondent-appellant Michael Stein appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii). We affirm.

Respondent challenges only the circuit court's determination that clear and convincing evidence established his desertion of the children for the statutory period to warrant termination of his parental rights under § 19b(3)(a)(ii). This Court reviews for clear error a trial court's decision that a statutory ground for termination has been proven by clear and convincing evidence. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

The record discloses abundant evidence that respondent deserted the children for well beyond a period of ninety-one days. In 1993, respondent and the children's mother divorced in North Dakota, and the mother was awarded full custody of the children. At the termination hearing, respondent candidly admitted he had neither seen nor contacted the children since 1995 and the children would not know him. Respondent acknowledged receiving notice of the instant proceedings while in Minnesota. However, a single telephone call to petitioner comprised the extent of his efforts to contact the children or participate in a reunification plan before the filing

of the termination petition, despite petitioner's advice to respondent that he contact the court. Respondent waited until approximately three weeks before the termination hearing to contact the court with a request to visit the children. The record also reflects that at no time did respondent engage in any voluntary action to initiate regular payments of support for the children. In sum, there is no indication in the record that respondent ever initiated any effort to contact or regain custody of the children or ensure that they received regular support during the seven-year period preceding the termination hearing.

Under these circumstances, we are not left with the definite and firm conviction that the circuit court made a mistake in finding clear and convincing evidence of respondent's desertion of the children for well beyond the statutory period. *In re Conley*, 216 Mich App 41, 42; 549 NW2d 353 (1996).[1]

Respondent also suggests that the circuit court erred by not specifically explaining its findings with respect to the children's best interests. However, this issue is not properly before us because respondent did not raise it in his statement of questions presented. *In re BKD*, 246 Mich App 212, 218; 631 NW2d 353 (2001). Furthermore, it is apparent from the circuit court's decision that the court was aware of the proper standard prescribed by MCL 712A.19b(5). In its decision from the bench, the court stated that it "further does not find that termination of parental rights to the children are clearly not in the children's best interest." A review of the court's lengthy decision, which accurately and scrupulously summarizes (1) the voluminous record of child abuse and neglect by both respondent and the children's mother, (2) the children's severe emotional difficulties, (3) respondent's demonstrated indifference to the children's welfare over a period of many years, including his failure to participate in the child protective proceedings, and (4) the lack of any bond between respondent and the children demonstrates ample support for the court's determination that termination of respondent's parental rights served the children's best interests.[2]

---

[1] We find unpersuasive respondent's suggestion that his seven-year failure to contact the children did not constitute abandonment because, due to orders prohibiting his contact with the children and their mother, he did not have the ability to communicate with or visit them. Respondent does not offer any relevant authority in support of this suggestion. *Sherman v Sea Ray Boats, Inc*, 251 Mich App 41, 57; 649 NW2d 783 (2002) (explaining that a party may not leave it to this Court to search for authority to sustain or reject his position). Respondent cites only three opinions of this Court, two published and one unpublished, addressing the termination of parental rights under § 51(6) of the Michigan Adoption Code, MCL 710.51(6). However, unlike § 19b(3)(a)(ii), § 51(6) authorizes termination of a noncustodial parent's rights, for purposes of adoption by the custodial parent and stepparent, when the noncustodial parent, "*having the ability to*" support, visit, or contact the child, fails to do so. Section 51(6)(a) and (b) (emphasis added). Furthermore, respondent did not contest the amendment to the judgment of divorce that suspended his visitation privileges, and he conceded at the termination hearing that he never made any effort to modify or vacate the order. Moreover, the children's mother testified that she tried to arrange post-divorce visits between respondent and the children but he ignored her efforts.

[2] To the extent respondent raises a one-sentence argument that the circuit court deprived him of due process, we decline to address it because he failed to raise the issue within his statement of

(continued…)

Affirmed.

/s/ Michael R. Smolenski
/s/ Richard Allen Griffin
/s/ Peter D. O'Connell

(…continued)

questions presented, and he cites no authority in support of his suggestion. *Sherman*, *supra* at 57; *In re BKD*, *supra* at 218.